

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**STIPULATION AND ~~[PROPOSED]~~
ORDER RE: TRANSFER OF ACTION
TO THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK**

WHEREAS, on or about May 4, 2009, Plaintiffs HIGHLANDS CAPITAL MANAGEMENT L.P., MICHAEL BLAKEMAN, DAVID SMITH, JULIA B. HITCHENS, HAROLD MOOZ, CONNIE HELDMAN and BILL BURGER filed this action in the Superior Court for the State of California, County of Marin, Case No. CIV 92202;

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2 WHEREAS, on or about September 18, 2009, Plaintiffs HIGHLANDS
3 CAPITAL MANAGEMENT L.P., DAVID SMITH, JULIA B. HITCHENS, HAROLD
4 MOOZ, CONNIE HELDMAN and BILL BURGER (collectively "Plaintiffs") filed a First
5 Amended Complaint in this action in the Superior Court for the State of California,
6 County of Marin, Case No. CIV 92202;

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8 WHEREAS, on October 1, 2009, Defendant FOREX CAPITAL MARKETS
9 LLC ("Defendant"), filed a Notice of Removal and removed this action to the United
10 States District Court Northern District of California; and

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12 WHEREAS, attorneys for Plaintiffs and attorneys for Defendant (the
13 "Parties") agree that transfer of this action to the United States District Court Southern
14 District of New York in New York, New York, is appropriate pursuant to 28 U.S.C. §
15 1406(a);

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17 Now therefore, the Parties jointly request that, pursuant to 28 U.S.C. §
18 1406(a), the Court transfer this action to the United States District Court for the
19 Southern District of New York in New York, New York.

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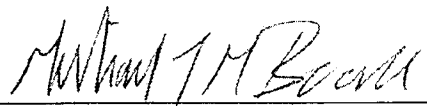
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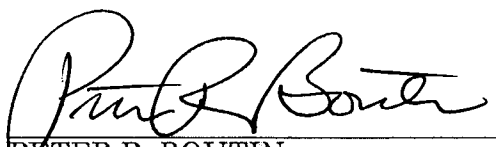
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2 IT IS SO STIPULATED.

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5 DATED: October 6, 2009


MICHAEL J.M. BROOK
LANAHAN & REILLEY LLP
Attorneys for Plaintiffs
HIGHLANDS CAPITAL MANAGEMENT
L.P., A CALIFORNIA LIMITED
LIABILITY CORPORATION, MICHAEL
BLAKEMAN, DAVID SMITH, JULIA B.
HITCHENS, HAROLD MOOZ, CONNIE
HELDMAN, AND BILL BURGER

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13 DATED: October 6, 2009


PETER R. BOUTIN
NICOLE S. BUSSI
KEESAL, YOUNG & LOGAN
Attorneys for Defendant
FOREX CAPITAL MARKETS LLC

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21 ORDER

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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24 DATED: October 6, _____, 2009


THE HONORABLE BERNARD ZIMMERMAN
UNITED STATES DISTRICT MAGISTRATE
JUDGE